

COMMERCIAL ACTIVITIES PROGRAM TOOLKIT

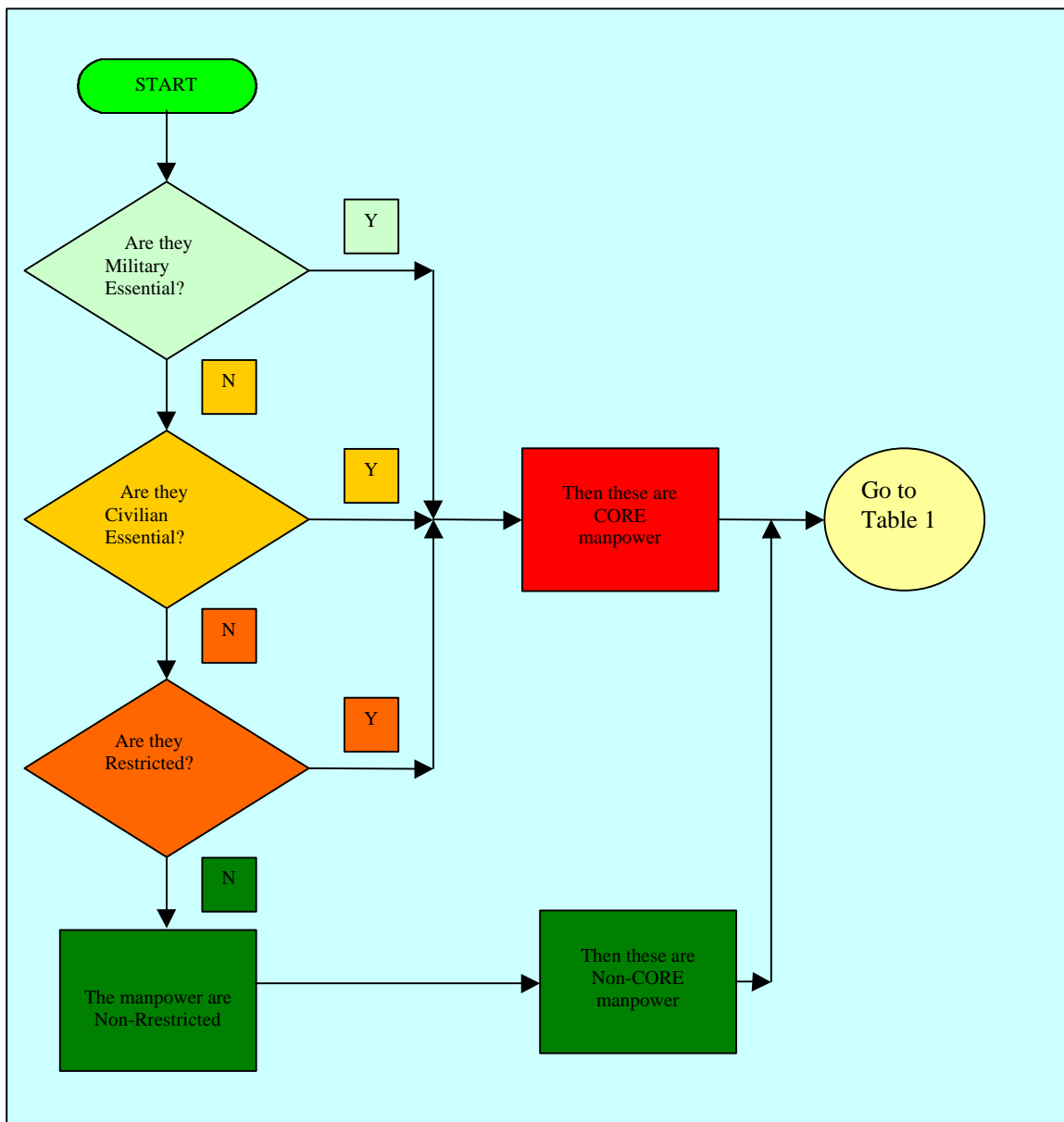
Headquarters, U. S. Army Corps of Engineers
Office of the Deputy Chief of Staff, Resource Management
Strategic Management and Innovations Division
Washington, D.C.
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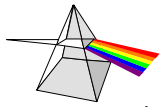


Effective Commercial Activities (CA) Program management requires an understanding of the environment to which it applies. When we first look through the prism at the work performed in the Department of Defense, we find that it is a mix of **Core** and **Non-Core** manpower. Core manpower consists of Military Essential, Civilian Essential, and Restricted manpower. Non-Core manpower consists of non-restricted manpower. Some Core manpower and all Non-Core manpower perform commercial activities.

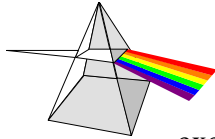
"A commercial activity is the process resulting in a product or service that is or could be obtained from a private sector source. Agency missions may be accomplished through commercial facilities and resources, Government facilities and resources or mixes thereof, depending upon the product, service, type of mission and the equipment required." (Appendix 1, Definition of Terms, Revised Supplemental Handbook to OMB Circular No. A-76.)

**Chart 1. Department of Defense Force Mix
(Core and Non-Core Manpower Classifications)**












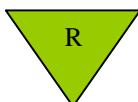
When we adjust the prism a little more, we find that Core Manpower perform either inherently governmental or commercial activity work that is exempt from competition. And, as noted earlier, we also find that Non-Core manpower perform work that is **subject to competition or direct conversion**.



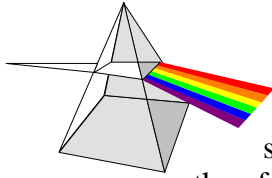
Adjusting the prism further we learn that codes assigned to Core and Non-Core manpower, further refine the process for identifying whether the work performed by that manpower is inherently governmental, a commercial activity exempt from competition, or a commercial activity that is subject to competition or direct conversion.

Table 1. Types of DoD Manpower

REASON CODES		TYPE OF MANPOWER	
Inherently Governmental	Exempt from Competition		
A - Military Combat C - Military Unique Knowledge & Skills 	B - Military Combat Augmentation D - Military Image & Espirit de Corps E - Military Rotation F - Military Career Progression 	Military Essential	CORE MANPOWER
G - Civilian Authority & Direction H - Civilian Expertise & Control 	I - Civilian National Security & Operational Risk 	Civilian Essential	
J - Executive Order, Law, Treaty, or International Agreement K - Legislatively Mandated Floors 	L - DoD Management Decision 	Restricted	
Subject to Competition or Direct Conversion		Non-Restricted	NON-CORE MANPOWER
M - Based on Cost Comparison N - Pending Contract Award O - Pending Cost Comparison Results P - Pending Restructuring Decision Q - Based on Terminated Cost Comparison R - Subject to Review 			

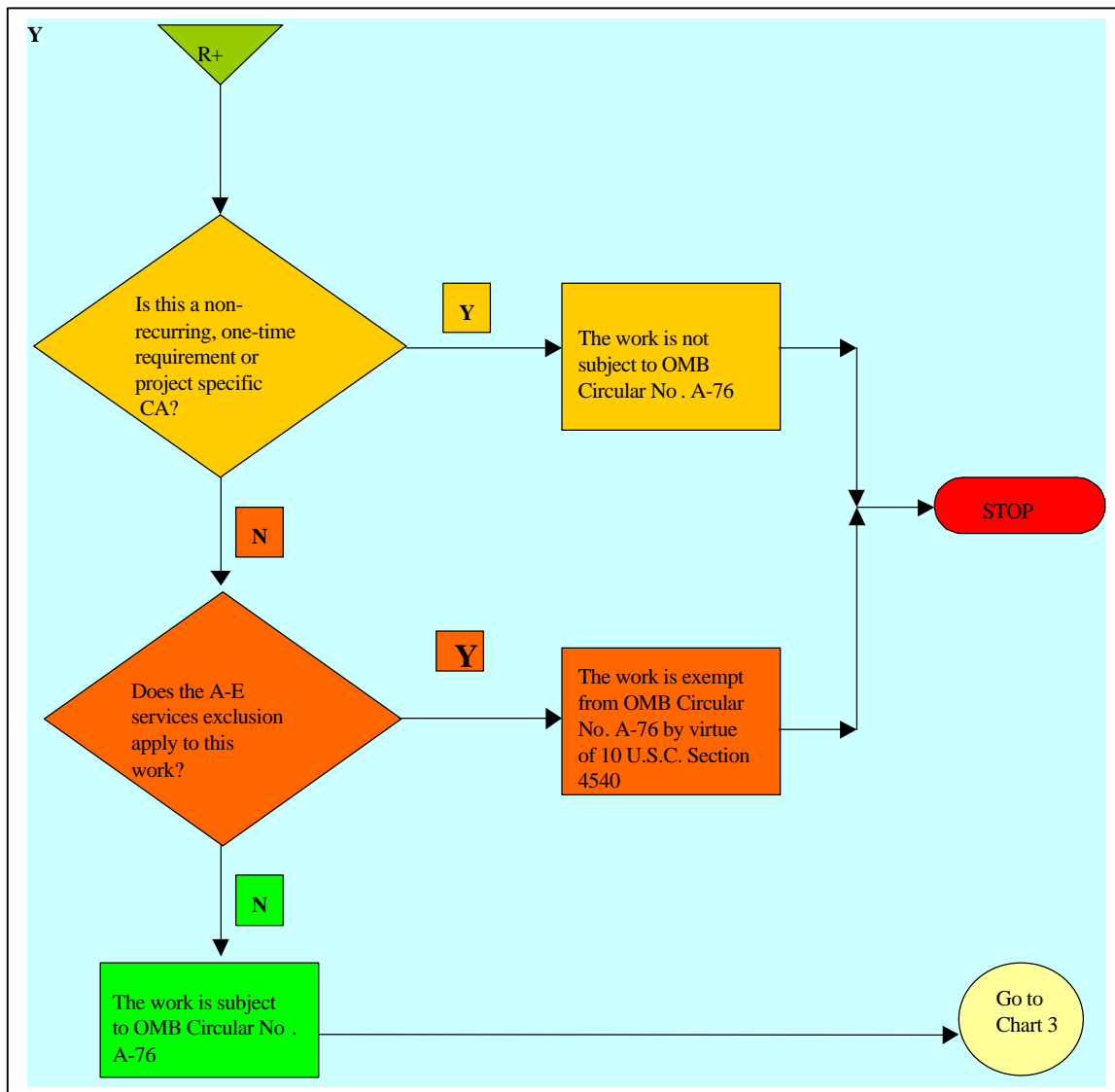


See Chart 2 for CA's coded R



All activities subject to competition however, are not necessarily subject to OMB Circular No. A-76. We must adjust our prism once again to determine if the work performed is a **Recurring Activity** (in contrast to work that is project specific) or is activity associated with Architect-Engineer (A-E) services (and therefore exempt by reason of 10 U.S.C. Section 4540).

Chart 2. Commercial Activities Excluded from OMB Circular No. A-76

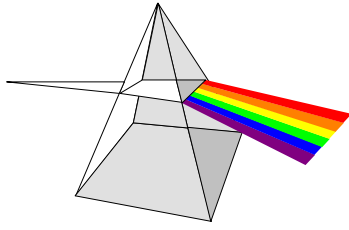


Explanations:

R+ includes CAs subject to review (from Table 1) plus new starts, conversions, and expansions.

Work that is required by the Government on a consistent and long-term basis and for which the expected workload can be reasonably estimated is a recurring commercial activity.

Architect-Engineer (A-E) services are defined in FAR Subpart 36.102 and services subject to FAR Part 36 are presented in FAR Subpart 36.601-4. (Also see EP 715-1-7, Architect-Engineer Contracting.)



Once we know that the work is subject to OMB Circular No. A-76, we need to determine the manpower effort involved in performing the commercial activity so that we can apply the appropriate procedures. Usually, the number of full-time-equivalents (FTE) performing the commercial activity will enable us to determine whether a Direct Conversion to Contract is permitted or whether a

Cost Competition Study is required.

Chart 3. Direct Conversion to Contract or Cost Competition Study

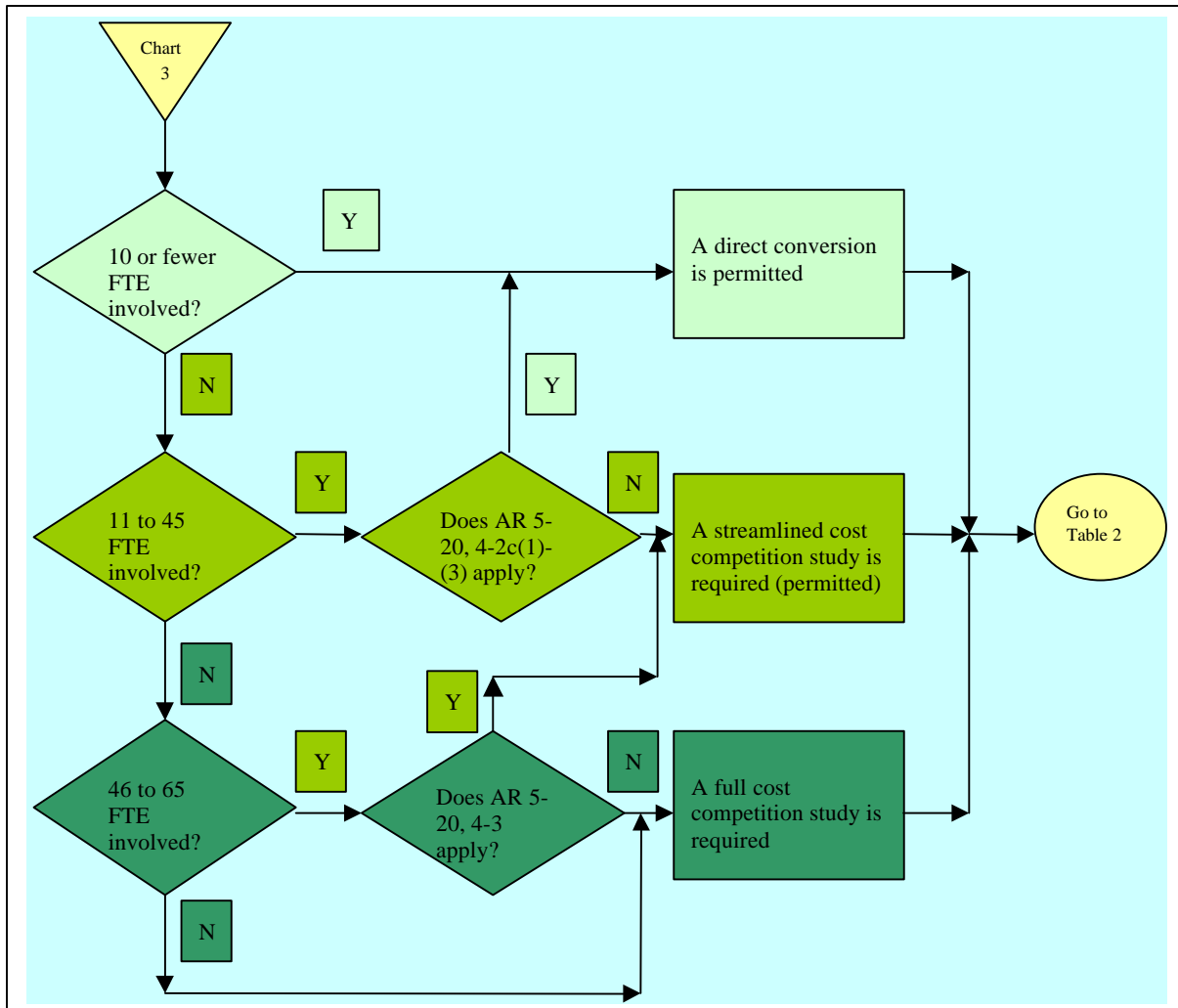


Table 2. General Rules and Reporting Requirements

IF THIS SITUATION INVOLVES	THEN THE GENERAL RULE IS	THE EXCEPTION TO THE GENERAL RULE IS	REPORTING REQUIREMENTS					
			CPAS (AR 5-20, 4-5.d.)	CASTS (AR 5-20, 4-5.b.)	Announce to Congress (AR 5-20, 4-5.e.(1))	18/36 (AR 5-20, 4-5.c.)	Final Decision Report (AR 5-20, 4-5.d)	Announce Final Decision to Congress (AR 5-20, 4-5.e.(2))
In-House Function: 10 or fewer FTE	IF the Contracting Officer determines that offerors will provide required levels of service quality at fair and reasonable prices AND the TDA and/or the CW manpower records or manning table for the activity had 10 or fewer civilian authorizations on 30 Mar 94, the date of the FWRA THEN direct to contract is permitted (AR 5-20, 4-2.a.)	IF the contract is awarded to a required source of supplies and services as defined in FAR Part 8 at a fair market price AND even if the conversion results in adverse employee actions. THEN the commander may convert in-house activities of any size to contract performance without a cost competition study (AR 5-20, 4-2.d.)	YES	YES	NO	NO	YES	NO
In-House: 11 to 45 FTE	IF fair and reasonable prices can be obtained through competitive award AND all directly affected Federal employees serving on permanent appointments are reassigned to other comparable Federal positions for which they are qualified AND the existing in-house organization is certified as the MEO THEN direct to contract is permitted ELSE Conduct a streamlined cost competition study. (AR 5-20, 4-2.c.)	IF the contract is awarded to a required source of supplies and services as defined in FAR Part 8 at a fair market price AND even if the conversion results in adverse employee actions. THEN the commander may convert in-house activities of any size to contract performance without a cost competition study (AR 5-20, 4-2.d.)	YES	YES	YES (45 or more FTE)	YES	YES	YES (10 or more FTE)

IF THIS SITUATION INVOLVES	THEN THE GENERAL RULE IS	THE EXCEPTION TO THE GENERAL RULE IS	REPORTING REQUIREMENTS					
			CPAS (AR 5-20, 4-5.d.)	CASTS (AR 5-20, 4-5.b.)	Announce to Congress (AR 5-20, 4-5.e.(1))	18/36 (AR 5-20, 4-5.c.)	Final Decision Report (AR 5-20, 4-5.d)	Announce Final Decision to Congress (AR 5-20, 4-5.e.(2))
In-House Function: 46 to 65 FTE	<p>IF the commander or designee certifies the existing in-house organization as the MEO</p> <p>AND the activity is one that competes largely on a labor and material cost basis</p> <p>AND the activity will not require significant capital asset purchases or all equipment requirements will be GOCO</p> <p>AND the activity is commonly contracted by the government and/or private sector</p> <p>THEN conduct a streamlined cost competition study</p> <p>ELSE Conduct a full cost competition study. (AR 5-20, 4-3.)</p>	<p>IF the contract is awarded to a required source of supplies and services as defined in FAR Part 8 at a fair market price</p> <p>AND even if the conversion results in adverse employee actions</p> <p>THEN the commander may convert in-house activities of any size to contract performance without a cost competition study</p> <p>(AR 5-20, 4-2.d.)</p>	YES	YES	YES	YES	YES	YES
In-House Function: More that 65 FTE	<p>A full cost competition is required.</p> <p>(AR 5-20, 4-2.)</p>	<p>IF the contract is awarded to a required source of supplies and services as defined in FAR Part 8 at a fair market price</p> <p>AND even if the conversion results in adverse employee actions</p> <p>THEN the commander may convert in-house activities of any size to contract performance without a cost competition study</p> <p>(AR 5-20, 4-2.d.)</p>	YES	YES	YES	YES	YES	YES

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Consolidation	<p>IF the total operating cost of the expansion is 30 percent greater than the total of the individual components</p> <p>OR</p> <p>IF it requires an increase of 65 civilian FTEs or more</p> <p>THEN a cost competition study is required.</p> <p>(AR 5-20, 2-4.b.)</p>	<p>The commander may convert in-house activities of any size to contract performance without a cost competition study if the contract is awarded to a required source of supplies and services as defined in FAR Part 8 at a fair market price, even if the conversion results in adverse employee actions.</p> <p>(AR 5-20, 4-2.d.)</p>	YES	YES	YES (45 or more FTE)	YES	YES	YES (10 or more FTE)
Default After the First Year of Contractor Performance	<p>IF interim support is not feasible</p> <p>THEN MACOM may approve in-house or IGS performance not to exceed one year</p> <p>AND</p> <p>not later than six months after the original contractor defaults must issue solicitation to return interim activity to the private sector without a cost competition, reprocur from another contractor who offered a reasonable price on the original solicitation, or initiate a Transfer Cost Competition Study to justify conversion to in-house or IGS.</p> <p>(AR 5-20, 2-5.c.)</p>	<p>IF it is an emergency</p> <p>THEN seek interim contract support</p> <p>(AR 5-20, 2-5.d.)</p>	YES	YES	NO	NO	NO	NO

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Default During First Year of Contractor Performance	<p>IF the next offeror in line for award from the cost competition study is still available and is willing to accept the balance of the work at the offered price, adjusted on a prorata basis for the remainder of the contract term THEN the Contracting Officer will award to that offeror</p> <p>OR</p> <p>IF the MEO is the next lowest price, and MEO implementation is still feasible THEN the activity will return to in-house performance</p> <p>OR</p> <p>IF (1) or (2) above do not apply THEN either issue a solicitation to return activities to the private sector without a cost competition study</p> <p>ELSE</p> <p>reprocure from another contractor who offered a reasonable price on the original solicitation</p> <p>OR ELSE</p> <p>initiate a Transfer Cost Competition Study to justify conversion to in-house or IGS not later than six months after the original contractor defaults. (AR 5-20, 2-5.b.)</p>		YES	YES	NO	NO	NO	NO

IF THIS SITUATION INVOLVES	THEN THE GENERAL RULE IS	THE EXCEPTION TO THE GENERAL RULE IS	REPORTING REQUIREMENTS					
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Expansion	<p>IF it involves a 30-percent increase in the operating cost of the activity, a 30-percent increase in the total capital investment to perform the activity</p> <p>OR</p> <p>IF it involves an increase of 65 civilian FTEs or more.</p> <p>THEN a cost competition study is required. (AR 5-20, 2-4.b.)</p>	<p>The commander may convert in-house activities of any size to contract performance without a cost competition study if the contract is awarded to a required source of supplies and services as defined in FAR Part 8 at a fair market price, even if the conversion results in adverse employee actions.</p> <p>(AR 5-20, 4-2.d.)</p>	YES	YES	YES (45 or more FTE)	YES	YES	YES (10 or more FTE)
Failure to Implement the Government MEO	<p>IF the post-MEO performance review reveals failure to implement the MEO in accordance with transition and management plans</p> <p>AND</p> <p>deficiencies are not corrected</p> <p>THEN the Contracting Officer will reaward the work to the next offeror who participated in the cost competition study.</p> <p>ELSE</p> <p>IF award to the next offeror in line is not feasible</p> <p>THEN a cost competition study is required. (AR 5-20, 2-6.a.)</p>		YES	YES	YES (45 or more FTE)	YES	YES	YES (10 or more FTE)
Intergovernmental Support (Support agreements with other Army, Navy, or Air Force Installations or other DoD activities) (Also see DoDI 4000.19)	<p>IF the ISSA will result in a change to or from contract performance</p> <p>OR</p> <p>IF it involves aviation services</p> <p>THEN conduct a cost competition study (AR 5-20, 4-4.)</p>		YES	YES	YES (45 or more FTE)	YES	YES	YES (10 or more FTE)

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Intragovernmental Support (IGS) (Support to a non-DoD Federal activity)	<p>IF this is a new or expanded support request THEN a cost competition study is required</p> <p>OR</p> <p>IF a new or expanded IGS would result in a conversion of work to or from in-house or contract performance</p> <p>AND</p> <p>IF a cost competition study has not previously justified the provider's method of performance THEN a cost competition study is required</p>	<p>IF existing, new, or expanded work requirements were consolidated prior to 1 Oct 97 THEN a cost competition is not required</p> <p>OR</p> <p>IF work was transferred prior to 1 Oct 97 THEN a cost competition is not required</p> <p>OR</p> <p>IF (prior to 1 Oct 97) the consolidation does not result in a conversion of work to or from contract performance THEN a cost competition study is not required</p> <p>OR</p> <p>IF the existing IGS are continued or renewed after 1 Oct 97 THEN a cost competition study is not required</p> <p>OR</p> <p>IF (prior to 1 Oct 97) the provider has competed the work with the private sector</p> <p>AND</p> <p>IF the capacity does not increase by more than 30% or 65 FTE THEN a cost competition is not required</p>	YES	YES	YES (45 or more FTE)	YES	YES	YES (10 or more FTE)
(Also see DoDI 4000.19)	(AR 5-20, 4-4.)	(AR 5-20, 4-4.)						
New Requirement	<p>Obtain by competitively awarded contract</p> <p>(AR 5-20, 2-4.a.)</p>	<p>IF contract service quality or price may be unreasonable THEN conduct a cost competition study to justify in-house or IGS performance</p> <p>(AR 5-20, 2-4.a.)</p>	YES	YES	NO	NO	NO	NO

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Transfer (bringing contracted work back in-house)	IF the contract quality is unacceptable or the price increases significantly THEN the Contracting Officer will negotiate with the contractor to obtain reasonable prices or acceptable quality AND IF negotiation fails AND IF resolicitation does not result in reasonable prices THEN conduct a Transfer Cost Competition Study to justify conversion to in-house or IGS performance (AR 5-20, 2-5.e.)		YES	YES	NO	NO	NO	NO